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Right of peoples to self-determination

Algeria, Angola, Belarus, Bolivia (Plurinational State of), China, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Egypt, Eritrea, Ethiopia, Honduras, Iran (Islamic Republic of), Kenya, Lao People's Democratic Republic, Liberia, Madagascar, Malawi, Malaysia, Mali, Myanmar, Namibia, Nicaragua, Nigeria, Pakistan, Peru, Russian Federation, Sri Lanka, Sudan, Syrian Arab Republic, Venezuela (Bolivarian Republic of), Viet Nam and Zimbabwe: draft resolution

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The General Assembly,

Recalling all of its previous resolutions on the subject, including resolution 63/164 of 18 December 2008, and Human Rights Council resolution 10/11 of 26 March 2009,[1] as well as all resolutions adopted by the Commission on Human Rights in this regard,

Recalling also all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa,[2] as well as by the African Union,[3]

[1] See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 53* (A/64/53), chap. II.

[2] United Nations, *Treaty Series*, vol. 1490, No. 25573.

[3] On 8 July 2002, the Organization of African Unity ceased to exist and, in its place, the African Union came into force on 9 July 2002.

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Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[4]

Alarmed and concerned at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

Extremely alarmed and concerned about recent mercenary activities in some developing countries in various parts of the world, including in areas of armed conflict, and the threat they pose to the integrity of and respect for the constitutional order of the affected countries,

Convinced that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary-related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples,

1. *Takes note with appreciation* of the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination,[5] and expresses its appreciation for the work of the experts of the Working Group;

2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

4. *Urges once again* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the

[4] Resolution 2625 (XXV), annex.

[5] See A/64/311.

Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

5. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

6. *Encourages* States that import the military assistance, consultancy and security services provided by private companies to establish regulatory national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

7. *Calls upon* all States that have not yet done so to consider taking the necessary action to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;[6]

8. *Welcomes* the cooperation extended by those countries that received a visit by the Working Group and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

9. *Condemns* recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination, and stresses the importance for the Working Group of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities;

10. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

11. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

12. *Calls upon* Member States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

13. *Requests* the Working Group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition

[6] United Nations, *Treaty Series*, vol. 2163, No. 37789.

of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session;[7]

14. *Notes with appreciation* the work of the Working Group on its elaboration of concrete principles on the regulation of private companies offering military assistance, consultancy and other military security-related services on the international market, which it carried out after country visits and through the process of regional consultations, and in consultation with academics and intergovernmental and non-governmental organizations;

15. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

16. *Expresses its appreciation* to the Office of the High Commissioner for its support for convening the regional governmental consultations in the Russian Federation for States in the Eastern European Group and Central Asia region and in Thailand for States in the Asian region on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

17. *Requests* the Office of the High Commissioner to continue supporting the Working Group convening regional governmental consultations on this matter, with the remaining two to be held before the end of 2010, bearing in mind that this process may lead to the holding of a high-level round table of States, under the auspices of the United Nations, to discuss the fundamental question of the role of the State as holder of the monopoly of the use of force, with the objective of facilitating a critical understanding of the responsibilities of the different actors, including private military and security companies, in the current context, and their respective obligations for the promotion and protection of human rights and in reaching a common understanding as to which additional regulations and controls are needed at the international level;

18. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

19. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the necessary assistance and support for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

20. *Requests* the Working Group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixty-fifth session its findings on the use of mercenaries to undermine the enjoyment of all

[7] See E/CN.4/2004/15, para. 47.

human rights and to impede the exercise of the right of peoples to self-determination;

21. *Decides* to consider at its sixty-fifth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled "Right of peoples to self-determination".